HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 20412 of 2007

Dated 8th OCTOBER, 2007

Between

The Venkatraopally Grampanchayat,
Huzurabad Mandal, Karimangar district,
Rep. by its Sarpanch, Sri K.Srinivas

…..Petitioner

and

The Rural Electrification Corporation Limited,
A Government of India Enterprises,
New Delhi, rep. by Chief (IC& D), and, ors

…..Respondents.

HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 20412 of 2007

ORDER:

The petitioner- Grampanchayat, a body constituted under the provisions of the A.P. Panchayat Raj Act, 1994, seeks Writ of Mandamus, to declare the action of the respondents in taking steps for construction of 33/11 KV Sub-Station in Survey No. 187 of Pothireddipeta village, instead of Venkatraopalli village, contrary to the sanction order in Reference No.REC/IC&D/Sanction/06-07/435/7506, dated 5-7-2006, as illegal and arbitrary.

In order to improve the voltage and to over come the load to the existing 33/11 KV Sub-Stations in Karimnagar District, the Northern Power Distribution Company of A.P. Limited has prepared a scheme for construction of 33 more number of 33/11 KV Sub-Stations in the Karimangar District with the financial assistance of the Rural

Electrification Corporation Limited. The proposed location of Sub-Stations, as per the technical feasibility and required parameters, was examined and approved by the Rural Electrification Corporation Limited. One such substation was proposed in Venkatraopally village. In this Writ petition, it is the grievance of the petitioner that instead of locating the sub-station at Venkatraopally village, as per the proposals approved, the sub-station is being constructed in Pothireddypeta gram panchayat limits.

In the affidavit filed in support of the Writ Petition, it is stated that at the request of the respondents, the petitioner- Gram Panchayat had passed a resolution on 5-3-2007, resolving to purchase an extent of Ac.0.30 guntas of land and accordingly, the villagers of Venkatraopally mobilized the funds and purchased an extent of Ac.0.17 guntas of land in Sy.No.411/D and Ac.0.13 guntas of land in Sy.No. 412/B of Venkatraopally village and executed registered sale deed No.4268/2007, dated 6-9-2007 in favour of the seventh respondent. It is stated that foundation stone was laid down by the Honourable Chief Minister for construction of sub-station. It is further stated that at this stage, in view of the political considerations, the third respondent had issued directions to the fifth respondent to handover the land covered by Sy.No. 187, admeasuring Ac.0.30 guntas to the seventh respondent and based on the same, the respondents are taking steps for construction of the sub-station in the above said land contrary to the earlier proposals. It is stated that as much as the land was already purchased at Venkatraopally only at the request of the respondents, change of location for construction of sub-station is arbitrary and illegal.

Counter affidavit is filed by the Divisional Electrical Engineer (Operation) on behalf of the respondents. While generally denying the various allegations of the petitioner, in the counter affidavit, it is stated

that there was no request at all, as alleged by the petitioners, from the respondents to provide land to an extent of 0.30 guntas for construction of 33/11 KV Sub-Station at Venkatraopally village. It is stated that the Divisional Electrical Engineer (Operation), had addressed a letter dated 5.5.2007 seeking alienation of Ac.1.00 of Government land in Sy.No. 187 of Venkatraopally village (Pothireddypeta revenue), Huzurabad Mandal and on such letter, the Superintending Engineer had written letter to the District Collector, Karimnagar District, on 10-5-2007, requesting to grant necessary permission to handover the possession of the above said land so as to take up the work for construction of sub-station. It is stated that during the visit of the Honourable Chief Minister to Huzurabad, foundation stone was laid in the Agricultural Market Committee yard, Huzurabad town for construction of sub-station. It is further stated that the proposals for alienation of the land have been submitted to the District Collector well before the inaugural function of foundation stone by the Honourble Chief Minister. In the counter affidavit, it is further stated that the purchase of Ac.0.30 guntas of land in Sy.Nos. 411/D and 412/B by the petitioner is on their own interest and at no point of time, the Northern Power Distribution Company of AP Limited purchased the said land by investing any funds. It is stated that as per the revenue records, Sy.No. 187 itself is situated in Venkatraopally village, Hamlet of Pothireddypeta village of Huzurabad Mandal and separate entity of Gram panchayats of both villages of Venkatgraopally and Pothireddipeta are not taken into consideration while proposing the sub-station and based on the revenue records and availability of Government land at Venkatraopally village, 33/11 KV Sub-Station was proposed with a village name of Venkatraopally. It is further stated that for identifying the location of 33/11 KV Sub-Station, so many technical parameters are involved and construction work is being taken up only in Sy.No. 187 as proposed earlier. While reiterating that the proposals

were based on the revenue records only, it is stated that the proposed location in Sy.No. 187 at Venkatraopally, hamlet of Pothireddipeta village is beneficial to the entire consumers. It is further stated that there is no change as pleaded by the petitioners, and, prayed for dismissal of the Writ Petition.

The Pothireddipeta Gram Panchayat is impleaded as party-Respondent No.8. In the affidavit filed by the Sarpanch, Pothireddipeta Gram Panchayat, it is stated that the feasibility report for erection of 33/11 KV Sub-Station was prepared with a view to construct sub-station only in Sy.No. 187 and about Ac.1.00 of Government land was identified and the same was proposed for alienation to Northern Power Distribution Company of AP Limited. Further, it is stated that the land in Sy.No. 187 is located adjacent to the PWD BT road running in between the villages of Pothireddipeta and Venkatraopalli villages. It is stated in the affidavit that the construction work is being taken up as per the original proposals only and the petitioner is trying to disturb the location at this point of time.

Heard Sri I.Aga Reddy, for Sri Y.Rama Rao, learned Counsel appearing for the petitioner, Sri O Manohar Reddy, learned Standing Counsel appearing for the respondents and Sri K.N.Jwala, learned Senior Counsel, representing Sri I.Gopal Reddy, learned Counsel appearing for the impleaded Respondent No.8.

In this case, to consider for grant of relief as prayed for, the only aspect to be examined is, whether there is any change in the original proposals for locating and constructing 33/11 KV Sub-Station as pleaded by the petitioners. It appears that there was a composite revenue village for the villages of Pothireddipeta and Venkatraopally. Even from the very stage of inspection, there are proposals for constructing 33/11 KV Sub-Station in Sy.No.187 of Venkatraopally

village. Initially, the Venkatraopally village was the hamlet of Pothireddypeta village, but, subsequently, in view of the constitution of two different gram panchayats, the erstwhile revenue village was separated by issuing notification published in the Karimnagar District Gazettee on 20-6-2002. Initially, in the loan sanction approvals, the proposal for construction of sub-station was proposed as per the revenue records without taking into account the bifurcation into two gram panchayats. Even in the letter which was addressed by the Divisional Electrical Engineer,(Operation), Huzurabad, the proposals for location were sent only with regard to the government land in Sy.No.187 of Venkatraopally village (Pothireddipeta revenue) of Huzurabad Mandal in Karimangar District. Even thereafter, the Superintending Engineer, in turn, addressed the District Collector by letter dated 10-5-2007 for handing over of the possession of the above said piece of land covered by Survey Number 187. Though it is the case of the petitioner that the respondents have requested the petitioner-Gram Panchayat to provide land, but the same is categorically denied in the counter affidavit filed by the seventh respondent. At no point of time, there was any proposal to construct substation in any land other than the land in Sy.No.187. There is no such land in Sy.No.187 of Venkatraopally village, after bifurcation by division of revenue village. The land covered by Sy.No.187 is notified to be in Pothireddipeta village. Though in the loan-sanction approvals, the name of Venkatraopally village is mentioned, but, however, in the counter affidavit filed by the respondents, it is categorically stated that the proposals were prepared by taking into account the land in Sy.No. 187 as per the revenue records only. In that view of the matter, it cannot be said that there is change in the location as pleaded by the petitioner. Even the initial proposals for construction of sub-station were only in Sy.No. 187 of the erstwhile village and the same is being constructed in the same survey number and merely because the said

Survey number has fallen in Pothireddipeta village in the division of area for the purpose of gram panchayats, it cannot be said that there is any change in the proposal for location of the sub-station. That apart, the decision of such a needs to be taken on the basis of the technical feasibility like load survey parameters etc. In absence of any glaring illegality, this Court in exercise of powers under Article 226 of the Constitution of India, cannot interfere with such decision, which is approved by the technically qualified staff for locating the sub-station. Though it is the case of the petitioner that the foundation stone was laid by the Honourable Chief Minister, but however, it is to be seen, even according to the petitioners, the land was purchased by registered sale deed dated 6-9-2007 and the inaugural function for laying foundation stone was conducted at Huzurabad town on 20-5-2007, i.e. earlier to the purchase of the land itself and that itself shows that there is no such sanction for the site purchased by the petitioner for construction of 33/11 KV sub-station at Venkatraopally village. In that view of the matter, and, for the reasons stated above, there is no substance in the allegations of the petitioner that the respondents have changed the location only on political considerations. Even in the decision relied on by the learned Senior Counsel, Sri K.N.Jawala, in the case of J.R.Raghupathy Vs. State of AP {AIR 1988 SC 1681), with regard to location of Mandal Headquarters, the Supreme Court held as under:

> "……..The guidelines are merely in the nature of instructions issued by the State Government to the Collectors regulating the manner in which they should formulate their proposals for formation of a Revenue Mandal or for location of its Headquarters keeping in view the broad guidelines laid down in Appendix I to the White Paper. It must be stated that the guidelines had no statutory force and they had also not been published in the Official Gazettee. The guidelines were mere departmental instructions meant for the Collectors. The ultimate decision as to formation of a Revenue Mandal or

> location of its Headquarters was with the Government. It was for that reason that the Government issued the preliminary notification under Sub-Section (5) of Section 3 of the Act inviting objections and suggestions. The objections and suggestions were duly processed in the Secretariat and submitted to the Cabinet Sub-Committee along with its comments. The note of the Collector appended to the proposal gave reasons for deviating from the guidelines in some of the aspects. Such deviation was usually for reasons of administrative convenience keeping in view the purpose and object of the Act i.e. to bring the administration nearer to the people. The Cabinet Sub-Committee after consideration of the objections and suggestions received from the Gram Panchayuats and members of the public and other organizations as well as the comments of the Secretariat and the note of the Collector came to a decision applying the standards of reasonableness, relevance and purpose while keeping in view the object and purpose of the legislation, published a final notification under Sub Section (5) of Section 3 of the Act. There is nothing on record to show that the decision of the State Government in any of these cases was arbitrary or capricious or was one not reached in good faith or actuated with improper considerations or influenced by extraneous considerations. In a matter like this, conferment of discretion upon the Government in the matter of formation of a Revenue Mandal or location of its Headquarters in the nature of things necessarily leaves the Government with a choice in the use of the discretion conferred upon it."

The ratio laid down by the Supreme Court in the above judgment supports the case of the respondents.

In that view of the matter, I do not find any valid ground for grant of relief as prayed for.

The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED:08-10-2007.
Msnr.